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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,894	03/31/2000	Marvin J. Doman	S-90,669	7348

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UNITED STATES DEPARTMENT OF ENERGY
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ATTN: GC-62 (HQ) MS 6F-067
WASHINGTON, DC 20585-0162

EXAMINER

BEHREND, HARVEY E

ART UNIT PAPER NUMBER

3641

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

3-Q

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Office Action Summary

 Application No. 09/779899 Applicant(s) Behrend

 Examiner Behrend

 Group Art Unit 3641

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A ~~SHORTENED~~ STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE SIX MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/6/02 & 8/12/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) 6-9 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5, 10-14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approve ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)) _____

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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1. Applicant's election without traverse in the 3/6/02 response, of Group I and specie A, is acknowledged.

In the 8/12/02 response, applicant elected specie S with traverse, stating that species R and S are obvious variants of one another. On the basis of this statement, the election of species requirement between species R and S (see section 2 of the 7/02/02 Office action) is withdrawn.

An action on claims 1-5, 10-14 follows.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kessinger.

The shear ring reads on element 80 which is welded to shield plug 72 at 84 (col.4 lines 50+) and to the canister shell at 68 (col.5 lines 46+). Note also that cover 114 is welded to element 128 at edge 132. Element 128 is welded to the canister shell at lower edge 130 (col.6 lines 18+).

5. Claims 2-4, 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessinger in view of applicants own admission of prior art in the specification or, Hallet et al.

Kessinger has been discussed above. Claims 2 and 3 recite a multi-piece construction rather than a single unitary construction. However, such is admitted by applicant in the 8/12/02 response to be an obvious modification.

Claims 2 and 3 are further considered obvious in view of the case law stating that a one piece construction versus a multi-piece construction, is an obvious engineering choice (see MPEP 2144.04, part V).

As to claim 4, Kessinger shows the cover plate welded to the canister shell. It would have been prima facie obvious to have also welded the cover plate to the shield plug because such is no more than an art recognized conventional expedient.

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It is conventional in the art and hence obvious on its face to provide structure for leak testing as evidenced for example by the teachings thereof in either Hallet et al or applicants specification on page 6 lines 15+.

6. The other references cited further illustrate pertinent art.
7. Any inquiry concerning this communication should be directed to Harvey Behrend at telephone number (703) 305-1831. The examiner can normally be reached on Tuesday to Friday. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198.


HARVEY E. BEHREND
PRIMARY EXAMINER

behrend/jcs
11-06-02

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